

Appl. No. : 10/645,984
Filed : 08/22/2003

REMARKS

Claims 1-21 remain pending in the present Application, Claims 8, 14, 17, and 21 having been withdrawn following the December 14, 2005 Election/Restriction Requirement, and Claims 3, 6, and 11-13 having been amended. No new matter has been added. The claims set forth above include marking to show the changes made by way of the present amendment, deletions being in ~~strikeout~~ or [[double brackets]] and additions being underlined.

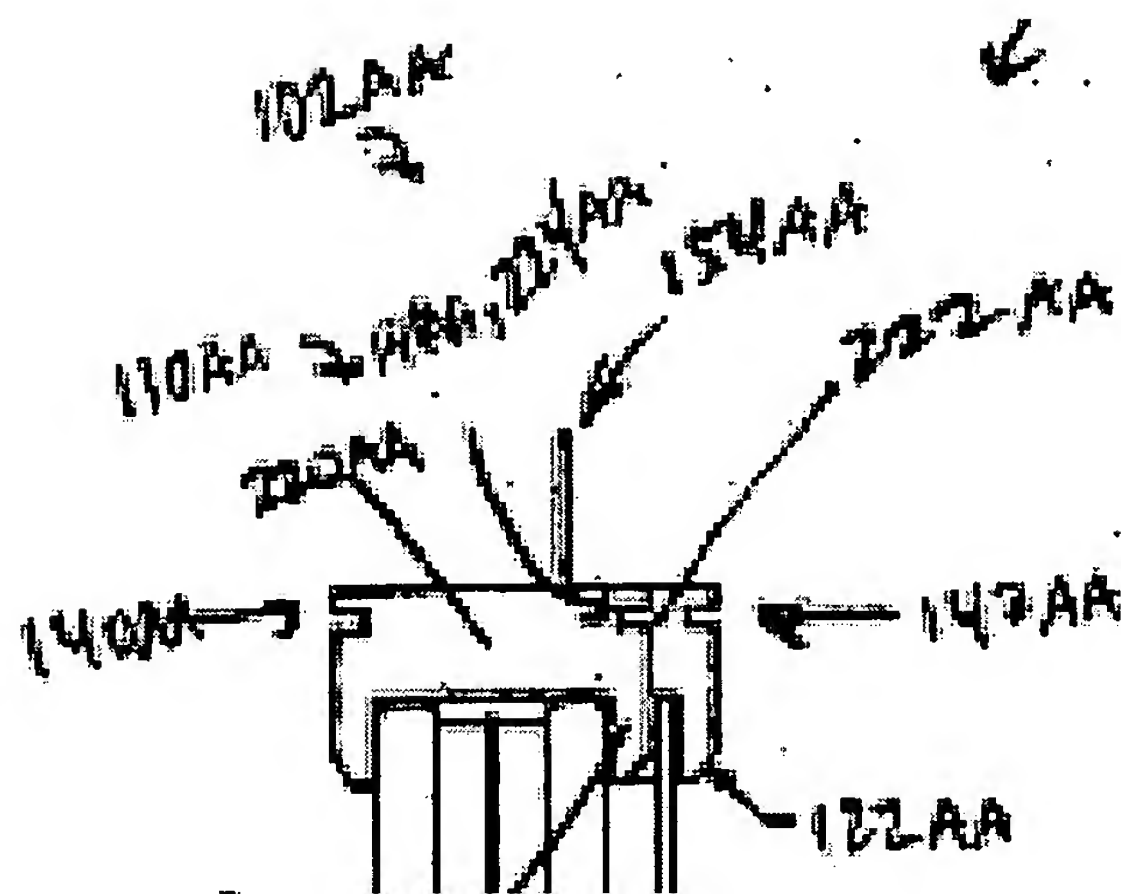
In response to the Office Action mailed March 20, 2006, Applicant respectfully requests the Examiner to reconsider the above-captioned Application in view of the foregoing amendments and the following comments.

Miller Does Not Anticipate Claims 3, 4, 9, and 11

Claims 3, 4, 9, and 11 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,581,865 issued to Miller. Applicant respectfully traverses the present rejection. However, in order to expedite prosecution of the present Application, Applicant has amended Claim 3. Additionally, Applicant has amended Claim 11 by rewriting it into independent form. Applicant expressly reserves the right to further prosecute the original versions of Claims 1-21 through continuation practice.

Miller discloses a window track 12 that includes a pair of spaced jaws 20 extending outwardly. The track 12 is secured to a window 26 by adhesive 28. Miller col. 2, ll. 29-35. As shown in Figure 5 of Miller, the window track 12 is a discrete component that is applied to a window 26 by taping the back 22 of the track 12 to the outside edge of a window 26. *See also* Miller col. 2, ll. 37-41. However, Miller fails to teach or suggest a design in which an accessory pocket comprises a channel recessed in a window frame.

In contrast, Claim 3 now recites, among other recitations, “a first window frame, a first window panel assembly supported by the frame, the frame defining an accessory pocket, comprising a channel recessed inwardly from an outer facing surface of the first window frame, extending around the periphery thereof, and a second window frame engaged with the accessory pocket.”



For example, as illustrated in the non-limiting embodiment shown in Figures 31 and 32, the accessory pocket 140AA is a recessed channel that does not extend beyond the outer edge of the window frame 108AA. This design is beneficial because, for example, it permits attachment of accessories such that the attached accessories are flush with the face of the window frame.

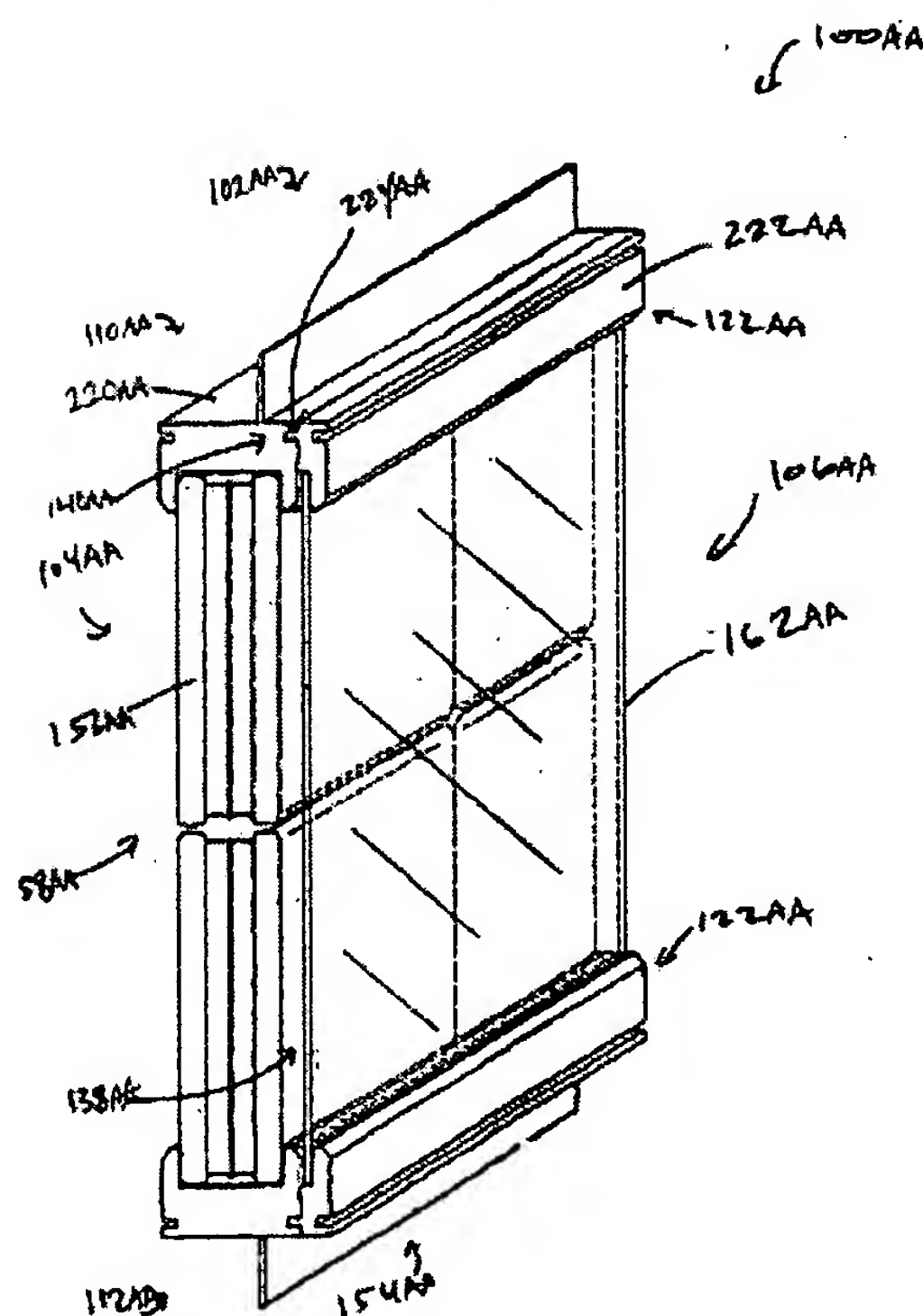


FIGURE 32

These concepts are disclosed in the present Application. For example, paragraph [0083] discloses that the "accessory pocket 140A can be configured to cooperate with an accessory (not shown) so as to couple the accessory with the window frame 108A. For example, flashing trim, stucco-guide, or siding return is sometimes connected to conventional accessory pockets, to finish off the exterior gap where the window frame 108A meets exterior finish of the building."

Nothing in Miller teaches or suggests such an accessory pocket in combination with the other recitations of Claim 3. Thus, Applicant submits that Claim 3 clearly and non-obviously defines over the Miller reference. Additionally, Applicant submits that Claim 4 also defines over the Miller reference,

not only because it depends from Claim 3, but also on its own merit.

With regard to the rejection of Claim 9, the Examiner asserted that Miller discloses a window assembly comprising a first window panel assembly having a first visual appearance and a second window panel assembly having a second visual appearance different from the first visual appearance. However, Miller fails to describe or suggest a visual appearance for a

Appl. No. : 10/645,984
Filed : 08/22/2003

window panel and fails to teach or suggest any second window panel having a second visual appearance that differs from a first visual appearance of a first window panel. Moreover, Miller does not even mention the visual appearance of any portion of the window system that it discloses.

In contrast, Claim 9 now recites, among other recitations, a "window assembly comprising a frame, a first window panel supported by the frame, a surface of the first window panel having a first visual appearance, and a second window panel supported by the frame, a surface of the second window panel having a second visual appearance different from the first visual appearance."

The visual appearance recited in Claim 9 relates specifically to the appearance of a *surface of the window panel* and not generally to other parts of a window assembly. The combination of window panel surfaces supported by a single frame but having different visual appearances allows advantages that are disclosed in the present Application as follows:

[0069] As mentioned previously, at least two of the window panel assemblies have differing functional or aesthetic features. For example, the first window panel assembly 104 can comprise a non-specular panel, such as, for example, but without limitation, a glass block window. As such, a further advantage is provided where the second window panel assembly 106 comprises a low-emissivity glass panel. As such, the assembly 100 can be used in many applications which heretofore have not been practicable. For example, materials with non-specular surfaces, such as glass block, present barriers to incorporation into exterior windows, doors and walls. The wide availability of what is commonly referred to as low-emissivity or "low-E" glass, has caused many governments to raise insulation requirements. As such, it has recently become more difficult to incorporate non low-E glass components, such as, for example, but without limitation, glass block, on building exteriors.

[0070] Thus, by utilizing a low-E glass panel as the second assembly 106, the assembly 100 can provide the desired aesthetic effect of the first assembly 104 and the energy-saving effect of a low-e material. As such, the assembly 100 can be used in a greater proportion on a building and remain in compliance with the recently enhanced insulation requirements in many countries.

Nothing in Miller teaches or suggests a technique employing window panels, the surfaces of which provide different visual appearances. Thus, Applicant submits that Claim 9 clearly and non-obviously defines over the Miller reference.

With respect to the rejection of Claim 11, the Examiner asserted that Miller discloses a first window panel assembly that comprises a non-specular surface. However, Miller does not

Appl. No. : 10/645,984
Filed : 08/22/2003

contain any teaching or suggestion whatsoever of a window panel assembly that comprises a non-specular surface.

Claim 11 recites that "the first window panel assembly comprises a non-specular surface."

The present Application explains what "non-specular" means in this context in paragraph 89:

[0089] As used herein, the term "non-specular" refers to material with a surface that is generally less smooth and/or generally less reflective than a specular material. Non-specular glazing preferably comprises glazing material having one or more surfaces that can be uneven, rough, irregular, unfinished, imperfect, wavy, contoured, etched, patterned, scored, or otherwise less smooth than a specular glazing surface. Additionally, non-specular glazing can comprise glazing material having one or more surfaces that can appear cloudy, diffuse, translucent, or less reflective than a specular glazing surface. Such materials are widely used for windows, doors or walls where it is desired to allow light to pass therethrough while preventing clear visibility.

Nothing in Miller teaches or suggests a window panel assembly comprising a non-specular surface as described above in combination with the other recitations of Claim 11. Thus, Applicant submits that Claim 11 clearly and non-obviously defines over the Miller reference.

The Applied Combination of Miller and Arbab et al. Does Not Make Claims 7 and 13 Obvious

Claims 7 and 13 stand rejected under 35 U.S.C. § 103(a) as being obvious over Miller in view of U.S. Patent No. 5,821,001 issued to Arbab et al. Applicant respectfully traverses the present rejection. However, in order to expedite prosecution of the present Application, Applicant has amended Claim 13 to depend from Claim 11 rather than from Claim 9. Applicant expressly reserves the right to further prosecute the original versions of Claims 1-21 through continuation practice.

Miller was discussed above. In addition to the failures of Miller noted above, Miller also fails to disclose that the second window panel assembly includes a low-emissivity property.

Arbab et al. teaches techniques for coating transparent substrates with certain types of multilayer high transmittance, low emissivity coatings. However, nothing in Arbab et al. and Miller alone or in combination teaches or suggests that a low emissivity transparent panel should be supported by a second window frame engaged with an accessory pocket defined by a first window frame, as recited by Claim 7. Moreover, Arbab et al. and Miller fail to teach or suggest a first window panel assembly with a non-specular surface and a second window panel assembly with a

Appl. No. : 10/645,984
Filed : 08/22/2003

low-emissivity property, a fire-retardant property, or a hurricane resistant property supported in the same frame, as recited by Claim 13 now.

In order to support a rejection of a claim under 35 U.S.C. § 103(a), the references when combined must teach or suggest each and every element of the claim. Miller and Arbab et al., viewed together or separately, fail to teach or suggest all of the elements of each of Claims 7 and 13. Accordingly, the rejection of Claims 7 and 13 should be withdrawn.

The Office Action does not identify any motivation in the prior art for modifying the window system of Miller to comply with the requirements of each of Claims 7 and 13. In particular, no portion of Arbab et al. is cited in support of the present rejections. Moreover, although the Office Action states that "Miller is concerned with forming an insulated window system," it provides no explanation of how Miller provides motivation to remedy the deficiencies previously identified in Miller with respect to Claims 7 and 13.

Thus, Applicant submits that Claims 7 and 13 clearly and non-obviously define over the cited references.

The Applied Combination of Miller, Arbab et al., and Rosamond Does Not Make Claims 1, 5, 6, 10, 15, and 18 Obvious

Claims 1, 5, 6, 10, 15, and 18 stand rejected under 35 U.S.C. § 103(a) as being obvious over Miller in view of Arbab et al. and U.S. Patent No. 5,448,864 issued to Rosamond. Applicant respectfully traverses the present rejection. Applicant has rewritten Claim 6 in independent form. Applicant expressly reserves the right to further prosecute the original versions of Claims 1-21 through continuation practice.

Miller was discussed above. In addition to the failures of Miller noted above, Miller also fails to disclose a window assembly comprising glass blocks and a second window panel assembly that includes a low-emissivity property.

Arbab et al. was discussed above. In addition to the failures of Arbab et al. noted above, Arbab et al. also fails to disclose a window assembly comprising glass blocks.

Rosamond discloses a glass block panel assembly with improved thermal insulation and weather resistance qualities. Rosamond states that glass blocks can have improved thermal characteristics *compared to other glass blocks*. Rosamond col. 4, ll. 4-8. Thus, Applicant submits that one of ordinary skill would not be motivated to add a low-emissivity panel to a glass block

Appl. No. : **10/645,984**
Filed : **08/22/2003**

window. Rather, the teachings of Rosamond directed to improved glass block windows would suggest to one of ordinary skill in the art that other improvements to glass block windows are unnecessary.

The Office Action does not identify any motivation to combine Miller, Arbab et al., and Rosamond to meet the requirements of Claim 1. For example, Miller provides no suggestion or motivation to modify its window system to include a glass block window. Rosamond teaches away from using the techniques of Miller to modify Rosamond's improved glass block window.

In contrast, Claim 1 recites, "A window assembly comprising a window frame, a plurality of glass blocks forming a glass block window supported by the frame, and a transparent low-emissivity panel juxtaposed to the plurality of glass blocks and supported by the frame." No suggestion or motivation to combine the cited references to meet the recitations of Claim 1 has been presented. Thus, the rejection of Claim 1 should be withdrawn.

Similarly, Claim 15 recites "A window assembly comprising a window frame, a glass block window panel supported by the window frame and comprising a plurality of non-specular glass blocks joined together, and a low-emissivity window panel assembly juxtaposed to the glass block window panel on an outer side of the glass block window panel, the low-emissivity window panel assembly being supported by the window frame." No suggestion or motivation to combine the cited references to meet the recitations of Claim 15 has been presented. The rejection of Claim 15 should be withdrawn.

Miller, Arbab et al., and Rosamond separately or in combination fail to teach or suggest the combinations of elements recited in each of Claims 5, 6, 10, 15, and 18. For example, the references fail to teach or suggest an accessory pocket comprising a channel recessed inwardly from an outer facing surface of a first window frame, as recited in each of Claims 5 and 6. With respect to Claim 6, the references fail to teach or suggest a window panel assembly comprising a plurality of glass blocks having non-specular surfaces, among other recitations. The references also do not teach or suggest window panel assemblies having different visual appearances, as recited in Claim 10. Nowhere in any of the references cited is a teaching or suggestion of non-specular glass blocks, as recited in each of Claims 15 and 18.

Accordingly, the rejection of Claims 5, 10, 15, and 18 should be withdrawn.

Appl. No. : 10/645,984
Filed : 08/22/2003

On page 4 of the Office Action, Claim 19 is rejected under 35 U.S.C. § 103(a). However, no art is cited against Claim 19, Claim 19 is not rejected in the Office Action Summary, and page 5 of the Office Action indicates that Claim 19 contains allowable subject matter. Applicant presumes that the rejection of Claim 19 on page 4 of the Office Action is a typographical error.

The Applied Combination of Miller, Arbab et al., Rosamond, and Mazzoni Does Not Make Claims 2 and 16 Obvious

Claims 2 and 16 stand rejected under 35 U.S.C. § 103(a) as being obvious over Miller in view of Arbab et al., Rosamond, and U.S. Patent No. 3,971,178 issued to Mazzoni et al. Applicant respectfully traverses the present rejection.

Miller, Arbab et al., and Rosamond were discussed above. In addition to the failures of Miller, Arbab et al., and Rosamond noted above, the references, as noted by the Examiner, also fail to disclose the Application of desiccant material between the first and second window assemblies.

In order to overcome the deficiencies in Miller, Arbab et al., and Rosamond the Examiner looked to Mazzoni et al. Mazzoni et al. discloses that desiccant may be placed between glass panes to absorb moisture. However, Mazzoni et al. does nothing to overcome the deficiencies identified previously with respect to Miller, Arbab et al., and Rosamond.

Like the other cited references, Mazzoni et al. does not provide any suggestion or motivation to modify the teachings of Miller to conform to the recitations of each of Claims 2 and 16. For example, Mazzoni et al. fails to provide a teaching, suggestion, or motivation to modify the window system of Miller to include a plurality of glass blocks forming a glass block window. As another example, Miller, Arbab et al., Rosamond, and Mazzoni et al. separately or in combination fail to teach or suggest a glass block window panel comprising non-specular glass blocks, as recited in Claim 16. For at least these reasons, the rejection of Claims 2 and 16 should be withdrawn.

Thus, Applicant submits that Claims 2 and 16 clearly and non-obviously define over the cited references.

No Combination of Cited References Anticipates Claim 12 or Makes Claim 12 Obvious

According to the Office Action Summary, Claim 12 is rejected. However, the Detailed Action contains no rejection of Claim 12 and cites no art against it. Applicant notes that none of the cited references teaches or suggests a window panel assembly comprising a stained-glass

Appl. No. : **10/645,984**
Filed : **08/22/2003**

window, as recited in Claim 12 now. Thus, Applicant submits that Claim 12 clearly and non-obviously defines over the cited references.

Allowable Subject Matter

Applicant gratefully acknowledges the Examiner's identification of allowable subject matter in Claims 19 and 20.

Appl. No. : 10/645,984
Filed : 08/22/2003

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims and specification. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicant's attorney in order to resolve such issue promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: September 20, 2006

By: 

Michael A. Guiliana
Registration No. 42,611
Attorney of Record
Customer No. 20,995
(949) 760-0404

2941293_1
092006